

House Amendment to
Senate File 431

S-3319

1 Amend Senate File 431, as amended, passed, and reprinted by
2 the Senate, as follows:

3 1. Page 1, line 21, by striking <traffic control> and
4 inserting <the vertical portion of support structures for
5 traffic control signals or devices>

6 2. Page 1, after line 24 by inserting:

7 <NEW SUBSECTION. 9A. "Micro wireless facility" means
8 a small wireless facility with dimensions no larger than
9 twenty-four inches in length, fifteen inches in width, and
10 twelve inches in height and that has an exterior antenna, if
11 any, that is no more than eleven inches in length.>

12 3. Page 2, by striking line 7 and inserting:

13 <b. "Small wireless facility" includes a micro wireless
14 facility as defined in subsection 9A.

15 c. "Small wireless facility" does not include any structure>

16 4. Page 2, line 12, after <network> by inserting <, except
17 that "wireless facility" does not include coaxial or fiberoptic
18 cable that is not immediately adjacent to, or directly
19 associated with, a particular antenna>

20 5. Page 3, line 23, after <section.> by inserting <An
21 authority may reasonably limit the number of new utility poles
22 or wireless support structures, consistent with the protection
23 of public health, safety, and welfare, and provided that
24 such limitation does not have the effect of prohibiting or
25 significantly impairing a wireless service provider's ability
26 to provide wireless service within the area of a proposed new
27 structure.>

28 6. Page 3, line 30, after <a.> by inserting <(1)>

29 7. Page 4, after line 10 by inserting:

30 <(2) (a) Except as provided in subparagraph divisions
31 (b) and (c), an authority shall not impose any fee or require
32 any application or permit for the installation, placement,
33 operation, maintenance, or replacement of a micro wireless
34 facility that is suspended on operator-owned cables or lines
35 that are strung between existing utility poles in compliance

1 with national safety codes.

2 (b) An authority that has adopted a municipal or county code
3 which requires an application or permit for the installation,
4 placement, operation, maintenance, or replacement of a micro
5 wireless facility may continue the application or permit
6 requirement subsequent to the effective date of this Act.

7 (c) (i) An authority may require a single-use right-of-way
8 permit for the installation, placement, operation, maintenance,
9 or replacement of a micro wireless facility if any of the
10 following conditions apply:

11 (A) The work is contained within a highway lane or requires
12 the closure of a highway lane.

13 (B) The work disturbs the pavement, shoulder, ditch, or
14 operation of a highway.

15 (C) The work involves placement of a micro wireless facility
16 on a limited access right-of-way.

17 (D) The work requires any specific precautions to ensure the
18 safety of the traveling public or the protection or operation
19 of public infrastructure and such work was not authorized in,
20 or will not be conducted in, the same time, place, or manner
21 that is consistent with the approved terms of the existing
22 permit for the facility or structure upon which the micro
23 wireless facility is attached.

24 (ii) For purposes of this subparagraph division, "highway"
25 means the same as defined in section 325A.1.>

26 8. Page 4, line 24, after <code> by inserting <, the
27 national electrical safety code, applicable fire safety codes,
28 and any building code or similar code of general applicability
29 for the protection of the public health, safety, or welfare
30 that was adopted by an authority prior to the filing of the
31 application>

32 9. Page 4, after line 29 by inserting:

33 <(5) Require that after the construction of a small wireless
34 facility or new utility pole is completed in accordance
35 with all conditions under which the permit is granted, which

1 conditions shall be consistent with this section, the owner
2 of the small wireless facility or new utility pole, or the
3 owner's successor in interest, shall maintain the small
4 wireless facility or new utility pole at the expense of
5 the owner or successor and if the authority subsequently
6 undertakes any maintenance, public improvement project,
7 or reconstruction of authority property or equipment which
8 requires the modification, relocation, or reconstruction of
9 the small wireless facility or new utility pole, such work and
10 the costs thereof shall be the responsibility of the owner or
11 successor. If the project necessitating the modification,
12 relocation, or reconstruction of the small wireless facility
13 or new utility pole is for a private commercial purpose,
14 the authority may require the owner or successor to modify,
15 relocate, or reconstruct the small wireless facility or new
16 utility pole upon prepayment of the costs of such work by the
17 private commercial entity whose project facilitates the need
18 for such work. For purposes of this subparagraph, "new utility
19 pole" means a new utility pole installed by a wireless service
20 provider pursuant to this section solely for use as a wireless
21 support structure and that is owned by the wireless service
22 provider.>

23 10. Page 5, line 21, by striking <sixty> and inserting
24 <ninety>

25 11. Page 5, line 24, by striking <sixty> and inserting
26 <ninety>

27 12. Page 5, line 31, after <radius> by inserting
28 <consisting of substantially similar equipment to be placed on
29 substantially similar types of wireless support structures or
30 utility poles>

31 13. Page 6, line 6, by striking <may, upon request,
32 obtain> and inserting <may notify an applicant submitting any
33 additional siting applications during that seven-day period
34 that the authority is invoking its right to>

35 14. Page 6, by striking lines 14 through 16 and inserting:

1 <(ii) The application does not comply with the Iowa
2 electrical safety code, the national electrical safety code,
3 applicable fire safety codes, or any building code or similar
4 code of general applicability for the protection of the public
5 health, safety, or welfare that was adopted by an authority
6 prior to the filing of the application.>

7 15. Page 6, by striking lines 19 through 35 and inserting:

8 <(iv) (A) A licensed engineer selected by the applicant or
9 the authority certifies that siting the small wireless facility
10 as proposed would compromise the structural safety of, or
11 preclude the essential purpose of, the utility pole or wireless
12 support structure in the public right-of-way on which it is
13 proposed to be sited and any of the following conditions apply:

14 (I) The applicant fails to redesign the small wireless
15 facility in a manner determined necessary by the engineer to
16 make the existing utility pole or wireless support structure
17 structurally sound for the siting of the small wireless
18 facility.

19 (II) The applicant fails to modify the utility pole or
20 wireless support structure to make the structure structurally
21 sound for the siting of the small wireless facility.

22 (III) The applicant fails to replace the utility pole or
23 wireless support structure with a utility pole or wireless
24 support structure that is structurally sound for the siting of
25 the small wireless facility.

26 (IV) The applicant fails to propose an alternative location
27 for the siting of the small wireless facility.

28 (B) If an applicant chooses to modify or replace a utility
29 pole or wireless support structure to make the structure
30 structurally sound for the siting of a small wireless facility,
31 the applicant shall pay or advance to the authority the costs
32 of modifying or replacing the utility pole or wireless support
33 structure with a utility pole or wireless support structure
34 that would safely support the small wireless facility and
35 preserve the essential purpose of the utility pole or wireless

1 support structure.

2 (v) The application seeks approval of a new small wireless
3 facility, utility pole, or wireless support structure that
4 would impair, interfere with, or preclude the safe and
5 effective use of facilities already located in the public
6 right-of-way for pedestrian, vehicular, utility, or other
7 authority public right-of-way purposes.

8 (vi) The application seeks approval for the siting of
9 a small wireless facility outside the public right-of-way
10 that would impair, interfere with, or preclude the safe and
11 effective use of an authority structure or property for a
12 public purpose.

13 (vii) The application seeks approval for the siting of a
14 small wireless facility on a wireless support structure used
15 exclusively for emergency communications equipment.

16 (viii) The application seeks approval for the siting of a
17 small wireless facility on a utility pole that is the vertical
18 portion of a support structure for a traffic control signal
19 or device, and the authority determines that the utility pole
20 lacks sufficient space or load capacity for the proposed siting
21 or the small wireless facility cannot be sited on the utility
22 pole without impairing the public health, safety, or welfare.>

23 16. Page 7, by striking lines 15 and 16 and inserting:

24 <(4) An authority shall not limit the duration of a permit
25 issued for the siting of a small wireless facility in a public
26 right-of-way pursuant to this subsection, and shall not limit
27 the duration of a permit issued for the siting of a small
28 wireless facility on an authority structure located outside of
29 a public right-of-way to any period less than ten years, with
30 one automatic five-year renewal, provided, however, that the
31 owner of the small wireless facility may terminate the permit
32 upon providing ninety days' notice to the authority. The>

33 17. Page 8, line 12, by striking <least of any> and
34 inserting <lesser>

35 18. Page 8, by striking lines 18 through 20.

1 19. Page 10, line 14, after <opportunity> by inserting <,
2 given the nature of the emergency,>

3 20. Page 10, line 18, after <manner,> by inserting <as
4 determined by the authority or public utility given the nature
5 of the emergency,>

6 21. Page 11, line 34, after <areas> by inserting <designated
7 as an underground district pursuant to a resolution or
8 ordinance adopted by an authority prior to the date the
9 application is filed or in areas>